

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION**

JASON ALFORD *et al.*,

Plaintiffs,

v.

THE NFL PLAYER DISABILITY &
SURVIVOR BENEFIT PLAN *et al.*,

Defendants.

Case No. 1:23-cv-00358-JRR

**DECLARATION OF MICHAEL B. MILLER IN SUPPORT OF
DEFENDANTS' JOINT MOTIONS FOR SUMMARY JUDGMENT**

I, Michael B. Miller, hereby declare pursuant to 28 U.S.C. § 1746, under the penalty of perjury, that the following is true and correct; that I have personal knowledge of the matters set forth herein, or knowledge based on my review of business records; and that, if called to testify as a witness in this action, I could and would testify competently thereto:

I. BACKGROUND

1. I am employed at the NFL Player Benefits Office (“NFLPBO”) in Baltimore, Maryland. The NFLPBO is the administrative office for the NFL Player Disability & Survivor Benefit Plan (the “Disability Plan” or the “Plan,” formerly known as the NFL Player Disability & Neurocognitive Benefit Plan and the NFL Player Disability, Neurocognitive & Death Benefit Plan) and other Taft-Hartley Act pension- and/or welfare-benefit plans maintained pursuant to collective-bargaining agreements between the NFL Players Association and the NFL Management Council.

2. I currently serve as Plan Director and have served in this capacity for 11 years (since 2013). Under the direction of the Disability Board, I am responsible for the day-to-day administration of the Disability Plan and (under the direction of their respective boards) the eight other Taft-Hartley pension- and/or welfare-benefit plans maintained pursuant to collective-bargaining agreements between the NFL Players Association and the NFL Management Council). In general, I provide operational oversight to these plans, and my responsibilities include:

- Maintenance of current and historical records pertaining to all benefit plans administered out of the NFLPBO,
- Preparation/printing and distribution of benefit plan documents, benefit statements, and general forms and information,
- Assistance with annual audits of benefit plans by independent auditors,

- Preparation of quarterly board meeting materials,
- Payment and reconciliation of all benefit payments,
- Payment of NFLPBO expenses,
- Distribution of request for proposals and negotiations for vendor services, and
- Preparation of the NFLPBO budget and monitoring it after approval.

II. PLAN FUNDING

3. In 2017, the Clubs contributed \$156,700,000 to the Disability Plan; in 2018, the Clubs contributed \$182,300,000; in 2019, the Clubs contributed \$212,500,000; in 2020, the Clubs contributed \$226,100,000; in 2021, the Clubs contributed \$255,800,000; and in 2022, the Clubs contributed \$298,400,000.

4. In addition to these Club contributions to the Disability Plan, the Clubs also fund the Bert Bell/Pete Rozelle NFL Player Retirement Plan (the “Retirement Plan”), as well as other pension- and welfare-benefit plans for former players and their beneficiaries. The Retirement Plan continues to pay certain total-and-permanent disability benefits based on claims filed before January 1, 2015, as well as line-of-duty benefits disability benefits paid to players who elected as of November 12, 2014 to roll over those benefits.

III. DISBURSEMENT OF PLAN ASSETS

5. Between 2017 and 2022, the Disability Plan paid nearly \$1.2 billion in benefits to former NFL players and their beneficiaries.

6. Disbursement of Plan assets in the form of benefits has increased steadily and significantly during that time, both in the number of Plan participants receiving benefits, and in the average annual benefits provided (not including Retirement Plan disability benefits):

a. In 2017, of the 10,525 Plan participants, 1,850 (or roughly 18%) received \$138,137,317 in benefits, for an average annual benefit of approximately \$74,669.

b. In 2018, of the 10,687 Plan participants, 2,034 (or roughly 19%) received \$157,040,942 in benefits, for an average annual benefit of approximately \$77,208.

c. In 2019, of the 11,399 Plan participants, 2,247 (or roughly 20%) received \$185,035,539 in benefits, for an average annual benefit of approximately \$82,348.

d. In 2020, of the 20,997 Plan participants, 2,722 (or roughly 13%) received \$201,299,934 in benefits, for an average annual benefit of approximately \$73,953.

e. In 2021, of the 12,642 Plan participants, 2,713 (or roughly 21%) received \$235,762,977 in benefits, for an average annual benefit of approximately \$86,901.

f. In 2022, of the 12,837 Plan participants, 2,978 (or roughly 23%) received \$257,463,357 in benefits, for an average annual benefit of approximately \$86,455.

7. Neither Committee nor Board members are paid for their service, and no Committee or Board member receives any remuneration or pecuniary gain if there is any residual or remainder in Plan assets after benefits are paid. U.S. Department of Labor regulations require that “decisions regarding hiring, compensation, termination, promotion, or other similar matters with respect to any individual (such as a claims adjudicator or medical or vocational expert) must not be made based upon the likelihood that the individual will support the denial of benefits.” 29 CFR § 2560.503-1(b)(7). This requirement is incorporated into the Plan at Articles 9 and 13.

8. Neither the NFLPBO nor Board maintains statistics on Neutral Physicians’ compensation, findings, or determinations. Although the NFLPBO maintains records of Neutral Physician and Medical Advisory Physician compensation, it does not compile or maintain statistics regarding the outcome of each Neutral Physician or Medical Advisory Physician evaluation. As such, absent manual review of all of a Neutral Physician’s individual reports, it would not be possible for the NFLPBO or Board to determine how many times a particular

Neutral Physician found that a Player did or did not qualify for benefits, or how many times a Medical Advisory Physician decided a specific medical issue in a way that favored or disfavored an award of benefits.

Executed this 18th day of November, 2024 at Baltimore, Maryland.

Michael B. Miller
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